

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>MADELINE CRUZ</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff</b>	:	
<b>vs.</b>	:	
	:	<b>NO. 02-CV-4372</b>
<b>PENNRIDGE REGIONAL</b>	:	
<b>POLICE DEPARTMENT</b>	:	
<b>and</b>	:	
<b>OFFICER TIMOTHY MALONEY</b>	:	

**DEFENDANTS' PETITION FOR TRIAL CONTINUANCE**

1. The above matter is currently scheduled for a two-week trial in front of The Honorable Robert F. Kelly beginning September 2, 2003.
  
2. Defendants request a thirty (30) day continuance of the trial because defendants' key witness, Chief H. Randall Dilling, was recently admitted to the hospital due to complications he was having with regard to prior surgery he underwent. Chief Dilling has just been released from the hospital this week and is still recovering.
  
3. Chief Dilling is the former Chief of Police for Defendant, Pennridge Police Department. Chief Dilling currently resides in Miami, Florida.
  
4. Pursuant to this Court's Order of July 29, 2003, plaintiff's only remaining allegation in this case is for retaliatory discharge.
  
5. Chief Dilling's testimony is crucial for defendants in this matter with regard to the retaliatory discharge claim, as he is the one who terminated the plaintiff's employment.
  
6. Chief Dilling has informed counsel that his doctor advised him that he will be unable to travel to Philadelphia for trial on September 2, 2003 and that he is also unable to sit for a videotape deposition for at least two more weeks due to his current state of health.
  
7. Prior to becoming aware of Chief Dilling's surgery, Defendants had hoped to present Chief Dilling live at trial, and therefore, a video deposition was not previously taken. In addition, the issues in this case have changed dramatically since this Court's July 29, 2003 Order.

8. Although Chief Dilling's deposition was taken in this case, his deposition testimony focused on harassment and hostile work environment issues rather than issues surrounding Plaintiff's discharge. Therefore, Chief Dilling's oral deposition testimony will not assist defendants in their defense of the retaliatory discharge claims. Chief Dilling's testimony regarding plaintiff's termination is crucial in order for defendant to prove that plaintiff was terminated based on poor job performance and not retaliation. Without Chief Dilling's testimony, defendants cannot adequately prepare a defense in this case.

9. Counsel for Plaintiff, J. Bradley McDermott, has advised defense counsel that he objects to defendants' continuance request based on the fact that Chief Dilling's oral deposition has already been taken and can be used at trial.

10. Defendants contend that if they are not provided with a thirty (30) day continuance of the trial, they will be unduly prejudiced as their key witness on the only remaining claim in this case, retaliatory discharge, is unable to travel for an unknown period of time and unable to sit for a video deposition for at least two more weeks while recovering from surgery.

11. Defendants will be happy to provide this Court with an Affidavit from Chief Dilling regarding his condition if requested to do so.

**WHEREFORE**, Defendants respectfully request a continuance of this trial for thirty (30) days.

Respectfully submitted,

**MARKS, O'NEILL, O'BRIEN &  
COURTNEY, P.C.**

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**ORDER**

**AND NOW**, this            day of            ,2003, upon consideration of Defendants' Petition for Trial Continuance, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Petition is **GRANTED** and the trial in this matter is adjourned for thirty (30) days.

**BY THE COURT:**

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**J.**

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**CERTIFICATE OF SERVICE**

I, Malissa R. Sill, hereby certify and state that a true and correct copy of Defendants' Petition for Trial Continuance has been forwarded to counsel of record listed below by regular, first class postage pre-paid mail. A courtesy copy has also been sent to The Honorable Robert F. Kelly.

J. Bradley McDermott, Esquire  
FELDMAN & PINTO, P.C.  
1604 Locust Street, 2R  
Philadelphia, PA 19103

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Malissa R. Sill, Esquire